



DEPARTMENT OF THE NAVY
NAVSUP FLEET LOGISTICS CENTER NORFOLK
700 ROBBINS AVE, BLDG 2B
PHILADELPHIA, PA 19111-5083

IN REPLY REFER TO

Determination and Findings

Authority to Issue an Interagency Order Pursuant to the Economy Act

DON/AA to EPA (Office of Information Collection) for FOIAonline

Based upon this Findings and Determination and pursuant to the authority of the Economy Act (31 U.S.C. 1535), the proposed Interagency Order may be issued as described below.

FINDINGS

1. The Department of the Navy, Assistant Secretary for Administration (DON/AA) proposes to enter into an interagency agreement with the U.S. Environmental Protection Agency (EPA), Office of Information Collection (OIC). The total value of the requirement is \$142,000.
2. DON has a requirement to manage Freedom of Information Act (FOIA) requests and responses pursuant to 5 USC 552a. The myriad of processes and systems used by the DON to meet its FOIA responsibilities are inconsistent, inefficient, and not conducive to management oversight. Consequently, DON/AA has determined that an Enterprise-wide FOIA management solution is necessary to resolve these issues and meet the DON's FOIA responsibilities. DON/AA has researched enterprise-type FOIA management solutions and identified that the EPA OIC has an existing contract for an intergovernmental FOIA system that is accessible to the public and Government agencies via a website (FOIAonline) that meets the requirements of the President's eGovernment Initiative and has the benefit of being commercially provided and maintained software.
3. The Navy's requirement is for EPA to provide operation and maintenance of FOIAonline and to provide DON unique functionality for that system. Included with the operations and maintenance support are any upgrades or changes required by law or the Department of Justice, a help desk to respond to user needs and questions about FOIAonline, web-based tracking and management of all FOIA requests, the ability to run management reports, the capability to compile the end of year FOIA report, and a repository for all responsive documents accessible by the public; the value of this aspect of the requirement is \$117,000. In addition, the Navy requires the EPA to develop enhancements, including the development of DON-unique functionality, specialized training, and management reports that will enhance the use and effectiveness of the FOIAonline tool for DON users; the value of this aspect of the requirement is \$25,000. The overall total amount of the requirement is \$142,000. The performance period of the requirement is 01 January 2014 through 31 December 2014.
4. DON/AA researched the following alternatives to the utilization of the existing EPA OIC contract in 2013, as follows:
 - a. Using a Navy contracting office to issue a standalone contract for the development of a Navy enterprise FOIA management tool. See table below for comparative costs.
 - b. Modifying an existing NAVSEA e-FOIA tool for the development of a Navy enterprise FOIA management tool. See table below for comparative costs.

<u>e-FOIA Tool</u>	<u>Cost to Reach Full Operating Capacity</u>	<u>Annual Operating Cost</u>	<u>Cumulative 5-year Cost</u>	<u>Total cost with 2014 enhancements</u>
FOIAonline (EPA OIC)	\$102K*	\$117K	\$687K	\$712K**
Navy-issued standalone contract	\$354K	\$169K	\$1.2M	\$1.2M
NAVSEA FOIA	\$60K	\$350K	\$1.8M	\$1.8M

* During Calendar Year 2013, the Economy Act action to have the EPA bring FOIAonline to full operating capability was executed. The period of performance of that action expires 31 Dec 2013. DON/AA reports that the EPA is well on target to complete that tasking before the end of the performance period within the \$102,000 in funding provided for that action.

**This number includes the \$25,000 in enhancement cost discussed in para. 3 above.

The DON/AA considered the cumulative implementation cost and 5-year operating costs of the EPA OIC solution (FOIAonline) and the alternatives, as shown in the chart above. Regarding the alternative of the Navy-issued standalone contract, both the implementation cost and the annual operating costs were significantly higher than the EPA OIC solution. Regarding the alternative of modifying the existing NAVSEA e-FOIA tool, while the initial costs to reach full operating capacity was lower, the annual operating costs were significantly higher, resulting in 5-year life cycle costs almost triple that of the EPA OIC alternative.

Based on the foregoing, it was clear that the acquisition alternatives were significantly more expensive than the EPA OIC solution. As a result, the DON/AA moved forward with executing development of FOIAonline solution with EPA OIC in 2013. As the current requirement is for annual operating costs plus enhancements, a review of the annual operating costs alone still shows the FOIAonline solution as the most cost effective method to acquire the necessary services even if the cost for the enhancements is only added to the FOIAonline alternative. At \$142,000 for the annual operating costs and enhancements, FOIAonline through EPA OIC, is still 16% less than the next lowest alternative even with the cost of enhancements for the other solutions considered at zero.

5. While not guaranteed due to ongoing DoD fiscal concerns, it is reasonably anticipated that the Navy will execute Interagency Agreements with EPA for FY2015 and beyond for the operation of FOIAonline.

6. The funds to be used for this Economy Act action are Fiscal Year 2014 Operations and Maintenance – Navy Funds. The DON/AA Comptroller will certify in the Interagency Agreement that the funds to be provided relative to this action will be available and appropriate for the action.

7. The procurement approach is to utilize EPA OIC's existing contract for FOIA management support to obtain the required services. With regard to FAR 17.502-1(a)(1)(i), services under this existing contract meet the Navy's schedule, performance and delivery requirements. In determining the appropriate procurement approach, the Navy has taken into consideration EPA OIC's authority, experience, expertise, and success in performing similar requirements. Pursuant to DFARS 217.7802(b)(2), the tasks to be accomplished are within the scope of the contract to be used, and pursuant to DFARS 217.7802(b)(1)(iv), EPA OIC has demonstrated its ability to perform proper contract administration and oversight.

8. Consistent with FAR 6.002, this action is not being entered into with another agency for the purpose of avoiding competition.

9. Pursuant to FAR 17.501, the interagency action is not being used to:

- a. Circumvent conditions and limitations on the use of funds;
- b. Circumvent the requirements of FAR subpart 7.3, Contractor Versus Government Performance; or,
- c. Make acquisitions conflicting with any other agency's authority or responsibility.

10. Pursuant to FAR 17.502-1(a)(1)(ii), the proposed action is considered cost effective because:

- a. There are no fees or charges other than the actual cost of the services being paid to the servicing agency.
- b. The Navy funding will be utilized under an existing EPA contract written for EPA's own use following the Federal Acquisition Regulations; therefore the pricing under the contract is considered to be fair and reasonable.
- c. The Navy portion of the EPA costs for its FOIA management support contract represents only a small portion of EPA's costs for the contract and the services it provides for itself and multiple Government agencies (i.e., EPA is using its buying power to leverage the market), and because the Navy does not have the experience and expertise of the EPA in contracting for these services, it is unlikely that the Navy could obtain, independent of EPA, a more cost effective manner of acquiring the services.

11. With regard to FAR 17.502(b)(1)(i), Assisted Acquisitions, the servicing agency and the requesting agency will both sign a written interagency agreement that establishes the general terms and conditions governing the relationship between the parties. The Contracting Officer for this Economy Act D&F has reviewed the draft interagency agreement and has found that it meets the requirements of FAR 17.502 and the Office of the Under Secretary of Defense Memorandum of 31 Oct 2008, "Meeting Department of Defense Requirements Through Interagency Acquisition." Since the Navy will be providing only a portion of the EPA's costs for the contract and the services it provides for itself and multiple Government agencies, it is the considered opinion of the Contracting Officer that no DoD- or Navy-unique contracting requirements, terms, or conditions, beyond those required by the FAR, are applicable to this Economy Act action.

12. Pursuant to FAR 17.502-1(a)(1)(iii), the interagency agreement will specify that the funds will be utilized in accordance with the requesting agency's appropriation limitations and in compliance with the requesting agency's laws and policies.

13. FAR 17.703(a) and DFARS 217.7802(a) require a certification from the head of a nondefense servicing agency that the agency will comply with the defense procurement requirements for that fiscal year for requirements in excess of the simplified acquisition threshold. Since this requirement is less than \$150,000, no such certification is required.

DETERMINATION

Pursuant to FAR 17.502-2(c)(1), and based on all of the foregoing, the following determinations have been made:

- a. The use of an interagency acquisition is in the best interest of the Government;
- b. The supplies or services cannot be obtained as conveniently or economically by contracting directly with a private source; and,
- c. The acquisition will appropriately be made under an existing contract of the servicing agency, entered into before placement of the order, to meet the requirement of the servicing agency for the same or similar supplies or services.

It is therefore determined to be in the Government's best interest to obtain the described services by interagency agreement under the Economy Act.

Date: _____
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Dr. James Willson-Quayle
Director, Department of the Navy Assistant for Administration
Directives & Records Management Division
Requirements Initiator

Reviewed:

Date: _____
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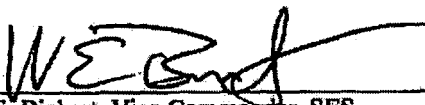
Reviewed and approved as to form and legality:

Date: _____
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Concurrence:

Date: _____
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NAVSUP FLC Norfolk, Philadelphia Office

Approved:

Date: 22 Dec 2013

W.E. Bickert, Vice Commander, SES
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